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13 Investigates Indiana man's arson case thrown out

Updated: May 13, 2008 05:53 PM EDT

[Sandra Chapman](#)/13 Investigates



Rob Montgomery

Ohio County - After eight years, a stint in prison and two set trials, an Indiana man who says he was wrongly accused is now free and clear of arson.

13 Investigates first uncovered the case of "[Burning Injustice](#)" last month. Instead of trying the case, an Ohio County judge threw it out Tuesday.



Prosecutor Aaron Negangard

Eight years and a day before he was to face another jury, the arson case against Robin Montgomery was tossed out for good.

An Indiana Appeals Court had ordered the new trial in 2004, citing circumstantial evidence and a lack of expert testimony. Montgomery had already spent more than a year in prison.

"To me it was more of a shock than anything," Montgomery said.



Montgomery's attorney says at least a dozen of the photos withheld would prove the fire was not arson.

Now on the heels of a 13 Investigates report on the lack of scientific evidence, an Ohio County judge blames the prosecutor for "tardy compliance" in turning over important evidence - 200 fire scene photos withheld for four years.

"This one doesn't add up," said Dr. Gerald Hurst, a nationally renown scientist who has freed death row inmates on arson charges. Hurst reviewed Montgomery's case and says the state did a poor job handling the investigation.

"There's a lot of evidence that indicates it started at the chest of drawers on the west wall. You have an explanation for it because you had a lamp there that had its cord run over by a vacuum cleaner," said Hurst.

The case against Montgomery began in 2000 when his former live-in girlfriend accused him of arson, but she admits running over the cord the day of the fire.

The state fire investigator never examined it. Even the insurance company investigator said he couldn't rule it out.

"He should have went in there and investigated the fire. That's what his job was. He did not do that," said Montgomery.

Part of the problem is the state of Indiana does not embrace or enforce the new fire investigation standards, known as NFPA 921. They were developed by a national committee of experts who say too many untested "old wives tales" are used instead of scientific fact.

"It's not taught. It's a book you buy from NFPA - National Fire Protection Association and it's a guideline," said Bob Dean, former chief Indiana state fire marshal.

"The importance of these guidelines was not as widely recognized as it is now being recognized," said Aaron Negangard, Ohio County prosecutor.

But until state lawmakers demand a consistent standard, Indiana opens itself up to charges of burning injustice.

Rob Montgomery is suing his insurance company for "breach of contract" for failing to cover damages to his home. His attorney, Merritt Alcorn, who has been silent until now, says at least a dozen of the photos withheld would prove the fire was not arson.

Prosecutor Negangard did not comment.

[Burning Injustice](#) - Read the original story.

[*Return to Fire*](#)

May 14, 2008

Possible fire station closings concern Muncie firefighters, residents

By RICK YENCER

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MUNCIE -- A four-minute response and four firefighters on the first fire truck making the call is the standard for fire protection established by the non-profit National Fire Protection Association.

"That is the standard we aspire to," said Muncie Fire Chief Eric Wilson. "That is not the reality."

While city firefighters generally make that first call within four minutes under the department's current organization, only three of its 11 truck companies have a four-man staff.

The rest -- including aerial equipment that NFPA says should be manned by five or six firefighters -- are understaffed.

Mayor Sharon McShurley's proposal to close two fire stations -- possibly those along Wheeling Avenue and in Heekin Park -- would definitely impact response time, according to the chief and Capt. Paul Sykes, president of Firefighters Local 1348. Reducing manpower would further strain minimum manning under NFPA standards.

The only law on the books -- required by the U.S. Department of Labor's Occupational Safety and Health Administration -- is for two firefighters outside for every two firefighters inside a burning structure.

Carl Peterson, NFPA's assistant director of public fire protection, said Tuesday the four-minute standard was for travel with extra minutes given to dispatch, turnout and deploying firefighters at the scene, producing a six-to-eight minute window.

A fire can double in size every minute, Sykes said, noting it only takes a few minutes for a room fire to go to a house fire.

The manning at the scene covers all basic firefighting tasks, Peterson said, along with providing one-on-one backup for firefighters battling the blaze.

"We are not supposed to go into a fire without having two in and two out," Sykes said. "That does not always happen."

Having two fire companies at every working fire ensures manning standards are met, Wilson said. On larger fires, the department can turn out even more firefighters, as minimum manning on each shift is 28 firefighters with a battalion chief.

Peterson said the non-profit advocacy and education organization developed the standards to ensure fire safety and explained the rules could be adopted by local code or in contracts between local communities and firefighters.

Indiana has not adopted standards for fire operations like response and manning equipment, according to Pam Bright, spokesman for the Indiana Department Homeland Security, which oversees the state fire marshal's office.

Peterson believed that standards should be used in any master plan to develop fire protection along with looking at the growth and demographics of a community.

McShurley has discussed having a committee of citizens, business people and others looking at the possible closing of stations and developing recommendations. There has been no immediate word of whether firefighters might be involved.

"We are trying to work with the mayor and come up with some ideas that would not negatively effect taxpayers," Sykes said.

While fire protection is paid for with property taxes, caps on taxes paid by homeowners, business, farm and rental property owners will limit funding. A proposed fire hydrant fee paid by all who use fire service -- including non-profits like Ball Memorial Hospital and Ball State University -- is an option, but has drawn little support from local elected officials in recent years.

Among some citizens who live near fire stations that might close, McShurley's proposal was described as "disappointing, upsetting" and even deadly to those who depend on the first response of a emergency medical technician or firefighter for a medical problem.

"I died and came back to life," said Evelyn Dominick, who had a life-threatening heart attack in 2006 and was revived by EMTs and firefighters dispatched from the Wheeling Avenue station.

Dominick, the mother of former Mayor David Dominick, was helping wash down her sister's house when she sat down to rest and passed out.

"They paddled me three times," said Dominick, referring to the life-saving equipment used to restart her heart. She later as multiple heart bypasses.

Dominick, who lives on North Milton Street, said she believed McShurley -- her choice for mayor in last year's city election -- should look for other places to cut spending, as did Bob Funkhouser, who lives along North Reserve Street, and has needed the life-saving efforts of first responders from the Wheeling station several times in recent years.

"They are driving people out of Muncie by doing stupid things like this," Funkhouser said.

Carl Kizer Jr., who lives along South Ebright Street near Heekin Park, was disappointed by McShurley's plan to close his neighborhood's fire station.

"That station provides security and is part of the master plan to build the new Unity Center," Kizer said.

Not only is the Industry neighborhood aging, like other Muncie neighborhoods, it also has more crime that needs first response from emergency medical and firefighters who make those runs along with Delaware County Emergency Medical Services.

"If you have to cut spending, you have to be selective where you cut," Kizer said.

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Herald Journal

'Last dollar' flood relief arrives

Scott Allen

Reporter

A local organization committed to providing long-term relief for area victims of the Jan. 8 and Feb. 7 floods of 2008 has recruited the help of a larger group trained for the job.

Disaster Assistance for Northwest Indiana (DANI) is a group consisting of more than 30 local faith- and community-based organizations formed in 2008 to provide relief where federal recovery monies fall short or is unavailable. Their focus is Benton, Carroll, Cass, Fulton, Jasper, Pulaski, Tippecanoe and White counties.

The group continues to gather donations and volunteers to ensure that the long-term needs of those devastated by the so-called "100-year floods" are met.

Through a wide-spanning network of organizations that includes Habitat for Humanity, Indiana Voluntary Organizations Active in Disaster (INVOAD), Hope Crisis Response Network, the Federal Emergency Management Agency (FEMA) and many more, DANI was hooked up with the Christian Reformed World Relief Committee Disaster Response program (CRWRC).

"We're brought together by the common theology of 'love your neighbor,'" said DANI Chair Jim Ward.

CRWRC is a group of volunteers specializing in needs assessment and trained to determine how disaster victims can overcome the final obstacles to restoring their lives, after state and federal relief funds to the individuals have been exhausted.

"FEMA estimates that there is still nearly \$1 million dollars in unmet need in our area," said DANI Director Alan H. Welch.

The volunteers are known as "green shirts," and for the obvious reason: they don green polo shirts for their mission. Friday, CRWRC Needs Assessment Team Leaders Garry and Lynne Den Besten of Michigan arrived in White County and met with Welch and Ward, who is also the pastor of New Hope Lutheran Church, Monticello.

"We're excited for them to be here," said Ward.

Replied Garry Den Besten, "And we're excited to be here."

"We usually come in after FEMA has been here, after they've already got their insurance figures, and now they've got problems," said Garry Den Besten. "They've got a whole bunch of things that didn't happen: either they didn't have flood insurance or they didn't get enough flood insurance money; FEMA is going to give them whatever, the maximum is \$28,000 or something like that, but that's not going to replace a house. So we come in and try to help the local group."

"We're last dollar," explained Ward.

Added Lynne Den Besten, "We're trying to find the people that fall through the cracks."

"Our goal at this point, it's been four months, five months at least; some of them aren't living real well, they're stressed out: how am I going to pay for this, how am I going to do anything here to fix up my house?" Garry Den Besten explained. "We're trying to find those people."

"We know of a couple of families that bought the materials to fix their houses up after the first flood, then the second flood came along and washed those materials down the river," said Welch. "I know of at least a couple of places on Tecumseh Bend where they just abandoned the place.

"The word is, they don't intend to come back...so if they're still in the area, those are the ones I hope will contact us."

Today, the Den Bestens are joined by eight other people: another Michigan couple, two couples from Illinois and two couples from Indiana.

"They usually try when they ship us to an area to keep us as local as they can; it keeps their costs down to the organization that we work for," said Garry Den Besten. "This is our third time out this year already."

From today until May 23, those members of the CRWRC needs assessment team will canvas the areas hit hardest by the flooding, including areas around Monticello, Remington and along the Tippecanoe River in Carroll County. They will go door-to-door, prepared to talk to residents about the damage to their homes and property.

"The canvassing effort will provide valuable, detailed information about the remaining needs," said Garry Den Besten. "The data will help DANI organize and prioritize its efforts to help these flood survivors."

The needs assessors will be dressed in the green polo shirts with "CRWRC" logos attached, and work on a strictly volunteer, humanitarian basis to work to provide help to those in need.

Flood victims with unfulfilled recovery needs that aren't visited at their homes are highly encouraged to call and/or visit walk-in centers that will be set up in Monticello, Delphi, and Remington, where trained individuals will help.

"(At the walk-in centers, victims will find) some friendly faces, to try and help them out. We try to find out first of all if they actually need to fill out a survey.

"First, we listen to their stories. Because that gives you such a clue about what has happened," said Lynne Den Besten.

"Then we have them fill out the survey; so we're asking them lots of questions," said Garry Den Besten. "Questions in terms of kinds of furniture they lost, rooms they still have to fix up."

Still-recovering victims should bring two essential pieces of information with them.

"Two items that we find that they usually forget about: they sign up for FEMA, and they need to know their FEMA number, so they should bring that along with them or have that available," said Garry Den Besten. "Most of the people that have been through it have that someplace; they just haven't got it memorized. The other one is, we also ask for the square footage of their house, especially if it's a house that's been totally destroyed."

On top of their goal to help people, DANI and CRWRC leaders want to find more volunteers and benefactors to help them help people.

"We are very much interested in identifying the people who are willing to help financially or by working," said Welch.

Anyone who would like to set an appointment to be visited by a needs assessor or to visit a walk-in center should call 877-773-0249, or can stop in during hours the listed walk-in centers are open.

Those interested in donating or volunteering should also call 877-773-0249.

For more information, visit www.daniflood.org.

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May 13, 2008

Feds: No threat directed at 500

Star and news service report

WASHINGTON -- The Indianapolis 500 is an attractive target for terrorists, federal authorities said, but there has been no credible or specific threat aimed at the Memorial Day weekend race.

In an internal FBI/Homeland Security Department assessment released Monday to local police, officials said such sporting events, which draw hundreds of thousands of spectators, are attractive terror targets because of the potential to create mass casualties while the whole world is watching.

Local police have taken extra precautions for the race since the Sept. 11, 2001, terror attacks, and this year will be no different, said Sgt. Paul Thompson, spokesman for the Indianapolis Metropolitan Police Department.

Thompson said IMPD collaborates with Speedway police, the Indiana State Police, the FBI and U.S. Marshals Service to ensure the track and city are safe.

"We are going to take every precaution to create a safe atmosphere like we've done for the last few years," Thompson said. "We recognize that this is a large and important event, and we have adjusted to the times."

Officials estimate between 200,000 and 300,000 people from around the world will attend the Indy 500. And during NASCAR season, thousands of people pack small towns across the country for as long as 10 days.

"We are fortunate to have excellent cooperation with all appropriate federal, state and local agencies to monitor and protect the security of our fans," Indianapolis Motor Speedway spokesman Fred Nason said Monday.

The federal assessment is supported by a congressional report, expected to be released this week, about the threat to mass gatherings.

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State Holding Earthquake Preparedness Workshops

By Network Indiana

5/13/2008

Indiana's recent earthquake pales in comparison to China's devastating quake Monday. However, state officials are holding workshops to talk about how they can prepare for and respond to a large earthquake here.

The Indiana Department of Homeland Security is bringing together emergency crews for regional meetings. A meeting is planned in Bedford May 20-21.

The extreme southwest part of the state is designated as Region 10. It extends from Evansville north and east to Martin County. Officials estimate that area of Indiana would be hit hardest by a New Madrid earthquake.

The Region 10 planning meeting was in Jasper last month. A meeting for the remainder of Indiana --areas north of Interstate 70--will be held in June.

The earthquake of April 18 rattled windows and awoke residents throughout Southern Indiana. It measured 5.2 magnitude at its epicenter.

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